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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,940	02/27/2002	Robert Lindsay Osbon	5420	8380

7590 10/06/2003
Terry T. Moyer
P.O. Box 1927
Spartanburg, SC 29304

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/083,940	Applicant(s) OSBON ET AL.	
	Examiner Christopher C Pratt	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

P riod for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2002 .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. The phrase "10% or greater" is a relative property which renders the claim indefinite. This property is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Applicant does not provide a reference point from which to measure an increase of 10%.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5 and 13-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Groitzsch et al (6448462 B2).

Groitzsch is concerned with the creation of a spunbond nonwoven fabric comprising continuous multicomponent fibers that are at least partially split along their length (abstract and col. 5, lines 53). The fabric exhibits the same improved aesthetic and performance characteristics claimed by applicant (col. 1, lines 31-36).

Groitzsch teaches a combination of polyethylene terephthalate and nylon 6,6 (col. 5, lines 30-32). The polymers are used in applicant's claimed proportions (col. 5, lines 45-47).

Groitzsch teaches a basis weight of 100 g/m² (col. 1, lines 43).

Groitzsch teaches applicant's claimed moisture vapor transmission rate (col. 3, lines 22).

Groitzsch teaches an optional dye to be added to the fabric (col. 4, lines 5-6). With respect to claims 16-18, Groitzsch teaches a full bath impregnation of dye (col. 3, lines 58-60). This would inherently allow the dye to reach the interior of the fibers and would result in increased uniform dyeing. Moreover, Groitzsch teaches subjecting the web to impingement by high pressure fluid jets (col. 3, lines 16-17). This process opens up the dense fiber-to-fiber construction of the fabric and creates available space, which allows dyes to further penetrate to fibers deep within the treated dyed fabric.

With respect to claims 19-29, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2USPQ2d 1647 (1987). The examiner is treating claims

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19-29 as intended use claims, which bear no patentable weight, because they do not contain additional structural limitations.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-9 and 11-12 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Groitzsch et al (6448462 B2).

Groitzsch does not utilize applicant's claimed testing methods to test bending stiffness ratio, increased thickness, or moisture absorption. However, Groitzsch teaches that its fabric has improved drape to conform and adapt to different body shapes (col. 1, lines 34) and improved moisture absorption (col. 2, lines 29-31 and 42-43). Based on Groitzsch's teachings and the fact that Groitzsch's web is formed from the same combination of polymeric materials and is produced by the same method as applicant's invention, it is the examiner's position that Groitzsch's web inherently possesses the same properties as applicant's claimed web.

In the alternative, it would have been obvious to a person having ordinary skill in the art to increase the stiffness ratio, thickness, moisture absorption, and moisture vapor transmission rate. These modifications would have been motivated by the desire to increase the ability of Groitzsch's bandage to treat larger wounds.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groitzsch et al (6448462 B2).

Groitzsch teaches the nonwoven fabric to have a basis weight of 150 g/m². It would have been obvious to a person having ordinary skill in the art to increase the size of the fabric to about 160 g/m². A slight increase in size would have been motivated by the desire to render Groitzsch's bandage suitable to treat a larger wound.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Christopher C. Pratt
September 17, 2003